APPENDIX

Section 5 of the Selective Training and Service Act of 1940, as amended (50 U. S. C. App. 305), provides, in part, as follows:

> (k) Every registrant found by a selective service local board, subject to appeal in accordance with section 10 (a) (2), to be necessary to and regularly engaged in an agricultural occupation or endeavor essential to the war effort, shall be deferred from training and service in the land and naval forces so long as he remains so engaged and until such time as a satisfactory replacement can be obtained: *Provided,* That should any such person leave such occupation or endeavor, except for induction into the land or naval forces under this Act, his selective service local board, subject to appeal in accordance with section 10 (a) (2), shall reclassify such registrant in a class immediately available for military service, unless prior to leaving such occupation or endeavor he requests such local board to determine, and such local board, subject to appeal in accordance with section 10 (a) (2), determines, that it is in the best interest of the war effort for him to leave such occupation or endeavor for other work.

The Selective Service Regulations applicable to this case provided:

> SEC. 622.25–1[1] Class II–C: *Man deferred by reason of his agricultural occupa-*

[1] In its present form (10 F. R. 5899) Section 622.25–1 provides:

tion or endeavor.—(a) In Class II–C shall be placed any registrant who is found to be necessary to and regularly engaged in an agricultural occupation or an agricultural endeavor essential to the war effort.

(b) Class II–C deferments shall be for a period of 6 months or less. At the expiration of the period of the registrant's deferment in Class II–C, his classification shall be reopened. So long as the registrant is necessary to and regularly engaged in an agricultural occupation or an agricultural endeavor essential to the war effort and until a satisfactory replacement in such agricultural occupation or agricultural endeavor can be obtained, the registrant shall be continued in Class II–C at the end of each successive period for which he has been deferred in such class.

(c) When a registrant in Class II–C leaves an agricultural occupation or an agricultural endeavor essential to the war effort, he shall be reclassified in Class I–A, Class I–A–O, or Class IV–E unless, before leaving such agricultural occupation or agricultural endeavor, he requests a determination and a determination is made that it is in the best interest of the war effort for him to leave such agricultural occupa-

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Class II–C: *Man in agriculture.*—(*a*) In Class II–C shall be placed any registrant age 18 through 29:

(1) Who is found to be "necessary to and regularly engaged in" an agricultural occupation or endeavor essential to the war effort and for whom a satisfactory replacement cannot be obtained; or

(2) Who is found to be disqualified for any military service or to be qualified for limited military service only and to be "regularly engaged in" an agricultural occupation or endeavor essential to the war effort.

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tion or agricultural endeavor for other work.

(d) Any registrant in Class II–C may file with his local board a written request for a determination required under paragraph (c) of this section. When the registrant's board has made a determination upon such request, it shall advise him thereof in writing.

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SEC. 623.2 *Information considered for classification.*—The registrant's classification shall be made solely on the basis of the official forms of the Selective Service System and such other written information as may be contained in his file; provided, that the local board shall proceed with the registrant's classification and classify him whenever (1) he has failed or hereafter fails to return his Select(ive) Service Questionnaire (Form 40) within the time allowed by section 621.2, or (2) he has been separated from the land or naval forces of the United States and the local board determines that he may be classified properly without requiring him to complete and return a Selective Service Questionnaire (Form 40), or (3) he has failed or hereafter fails to provide the local board with any other information concerning his status which he is requested or required to furnish. Oral information should not be considered unless it is summarized in writing and the summary placed in the registrant's file. Under no circumstances should the local board rely upon information received by a member personally unless such information is reduced to writing and placed in the registrant's file.

SEC. 626.2 *When registrant's classification may be reopened and considered anew.*—(a) The local board may reopen and consider anew the classification of a registrant (1) upon the written request of the registrant, the government appeal agent, any person who claims to be a dependent of the registrant, or any interested party in a case involving occupational deferment, if such request is accompanied by written information presenting facts not considered when the registrant was classified which, if true, would justify a change in the registrant's classification; or (2) upon its own motion if such action is based upon facts not considered when the registrant was classified which, if true, would justify a change in the registrant's classification; provided, in either event, the classification of a registrant shall not be reopened after the local board has mailed to such registrant an Order to Report for Induction (Form 150) unless the local board first specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant had no control.

(b) At any time before the induction of a registrant, the local board shall reopen and consider anew such registrant's classification upon the written request of the State Director of Selective Service.

SEC. 626.3 *Refusal to reopen and consider anew registrant's classification.*—When a registrant, any person who claims to be a dependent of a registrant, any interested party in a case involving occupational deferment, or the government appeal agent files with the local board a written request to reopen and consider anew the registrant's classification and the local

board is of the opinion that the information accompanying such request fails to present any facts in addition to those considered when the registrant was classified or, even if new facts are presented, the local board is of the opinion that such facts, if true, would not justify a change in such registrant's classification, it shall not reopen the registrant's classification. In such a case, the local board, by letter, should advise the person filing the request that the information submitted does not warrant the reopening of the registrant's classification and should place a copy of the letter in the registrant's file. No other record of the receipt of such a request and the action taken thereon is required.

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SEC. 627.24 *Review by board of appeal.*—(a) Except as provided in section 627.51 (c), the board of appeal shall consider appeals in the order in which they are received unless otherwise directed by the Director of Selective Service, in which event, they shall be considered in such order as the Director of Selective Service shall prescribe.

(b) In reviewing the appeal, the appeal board shall not receive or consider any information which is not contained in the record received from the local board except (1) the advisory recommendation from the Department of Justice under section 627.25, and (2) general information concerning economic, industrial, and social conditions.

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SEC. 627.26 *Decision of board of appeal.* * * *

(b) Such classification of the registrant shall be final, except where an appeal to

the President is taken; provided, however, that this shall not be construed as prohibiting a local board from changing the classification of a registrant in a proper case under the provisions of part 626. * * *

Local Board memorandum No. 164, issued by the National Office of the Selective Service System, provides as follows:

LOCAL BOARD MEMORANDUM NO. 164
Issued: 11/17/42.
As amended: 4/5/44.
Subject: CLASSIFICATION OF REGISTRANTS IN AGRICULTURE.

PART I—GENERAL POLICIES

1. *Objectives of the Selective Service System.*—The Selective Service System, in the selection of men, is responsible for the attainment of two objectives. The primary objective is to meet the manpower requirements of the armed forces. The secondary objective is to accomplish this result without disrupting civilian functions critically necessary to the war effort.

2. *War units plan withdrawn.*—Effective immediately as to Selective Service agencies, the war units plan for measuring agricultural activities is withdrawn.

3. *Classification provisions.*—In the classification or reclassification of registrants engaged in agriculture, local boards will apply the provisions of the Tydings' Amendment, section 5 (k) of the Selective Training and Service Act of 1940, as amended, the Regulations, and this memorandum.

4. *Bases for occupational deferment in agriculture.*—Only registrants described

as follows may be considered for occupational classification in Class II–C:

(a) Registrants (other than a registrant who has been found disqualified for any military service or has been found qualified for limited service only) (1) who are necessary to an agricultural occupation or endeavor, (2) who are regularly engaged in an agricultural occupation or endeavor, (3) whose agricultural occupation or endeavor is essential to the war effort, and (4) for whom it is established that a suitable replacement cannot be obtained.

(b) Registrants who by reason of being engaged in an agricultural occupation or endeavor are found to be making a contribution to the war effort, provided they have been found to be disqualified for any military service or have been found qualified for limited service only.

5. *Age factor.*—In the occupational classification in agriculture of a registrant (other than a registrant who has been found disqualified for any military service or who has been found qualified for limited service only) age will be given consideration as follows:

(a) For registrants, ages 18 through 25, the provisions of paragraph 4 (a) above will be applied with full consideration of the extreme need for physically fit young men in the armed forces.

(b) For registrants ages 26 through 29, the provisions of paragraph 4 (a) above will be strictly applied.

(c) For registrants ages 30 and over, the provisions of paragraph 4 (a) above will be applied less strictly with the increased age of the registrant.

6. *Consideration for fathers.*—Fathers will normally be accorded occupational de-

ferment in agriculture in preference to nonfathers.

7. *Replaceability.*—In determining whether a replacement can be obtained for a registrant engaged in agriculture (other than a registrant who has been found disqualified for any military service or who has been found qualified for limited service only), local boards will require that the irreplaceability of such registrant be established.

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III—War Boards

1. *Use of War Boards and information in their possession.*—Local boards should utilize the services of the United States Department of Agriculture County War Boards in securing necessary current information as to the agricultural activities of registrants who are in or are being considered for classification into Class II–C. Information in the files of the County War Boards also is available to the local boards and should be used.

2. *War Board may request deferment in certain cases.*—The County War Board may file requests for deferment of registrants whom the War Board considers necessary to and regularly engaged in agricultural occupations or endeavors essential to the war effort. Such requests should be supported with full information concerning the registrants' activities.

3. *War Board may appeal from certain local board decisions.*—The County War Board may appeal from local board decisions denying registrants' classification in Class II–C in cases in which the War Board has filed a request for deferment.

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